

### **REMARKS**

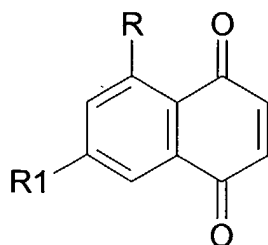
The final Office Action of December 19, 2003 was received and carefully reviewed.

Initially, the Applicants note that the arguments presented, in the Amendment of August 14, 2003, in traversal of the requirement for restriction of December 20, 2002 have not been addressed in the final Office Action. It is further noted that the Examiner has not made the requirement for restriction final in any previous office action. The Applicants respectfully request that the Examiner respond to the traversal arguments setting forth that the instant claims must viewed in light of 37 C.F.R. 1.475(b)(3) which permits, in a single application, product, method of making and method of using claims for an application filed under 35 U.S.C. 371. In addition to responding to those arguments traversing the restriction requirement, the Applicants further request, pursuant to the requirements of MPEP Chapter 821.04 and MPEP Chapter 809.04, that at least claims product claims 12 and 14, as well as the method of making claims 15 and 17, be rejoined with allowed linking method of use claims 18, 20 and 21 of the same scope.

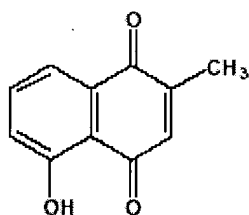
The Applicants have amended claims 13, 16 and 19 to place each claim into independent form. As a result of these amendments and the arguments to follow, reconsideration and withdrawal of the currently pending rejection is requested.

Claims 12-21 remain pending.

With regard to Examiner's rejection of claim 19, under 35 U.S.C. 102(b), as being anticipated by the Vichkanova et al article entitled "Search For Antimicrobial Drugs Among Quinines Of Plant Origin," the Applicants continue to respectfully traverse this rejection. The Examiner asserts that the compound of formula 1b:



is the same as the plumbagin compound of the Vichkanova et al. article. However, such a rejection should not be maintained since plumbagin compounds, such as those recited in the Vichkanova et al., have a well known naphthoquinone structure as set forth in the Evans et al article, "Plumbagin from *Diospyros olen*", *Molecules*, Vol. 3, (1999), p. M93, (copy attached) as follows:



Clearly, the compound of Figure 1b is not the same structure as that of plumbagin, i.e., neither R2 nor R3 in the compound of the claims is a methyl group, as must be the case with plumbagin.

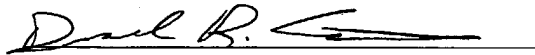
Consequently, the rejection of claim 19, under 35 U.S.C. 102(b), as being anticipated by the teachings of the Vichkanova et al article is improper and must be withdrawn, and claims 13 and 16 also rejoined with claim 19, pursuant to MPEP Chapters 809.04 and 821.04.

In view of the foregoing, the present application should now be in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner finds any issue to remain unresolved after considering this response, or should any new issue arise, he is invited to call the undersigned to expedite the prosecution by working out any such issue by telephone.

A Petition for an extension of time (one month) accompanies this response. However, if such petition should become lost or misplaced, this response shall instead serve as the petition for an extension of time and the Commissioner is authorized to

charge the appropriate extension of time fees to Deposit Account 19-2380 (742439-3). Further, the Commissioner is authorized to credit any refunds of fees excessively paid to Deposit Account 19-2380 (742439-3).

Respectfully submitted,

  
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